

PRESENT:

Dr. William P. Brown, Chairman

Dr. Edgar V. Wallin, Vice Chairman

Mr. Russell Gulley

Mr. J. Dale Patton

Mr. Reuben J. Waller, Jr.

Mr. Kirkland A. Turner, Secretary to the Commission, Planning Director

ALSO PRESENT:

Mr. Michael E. Tompkins, Assistant Director,

Development Review Section, Planning Department

Mr. Greg E. Allen, Planning Manager,

Development Review Section, Planning Department

Mr. Carl D. Schlaudt, Planning Manager,

Community Development

Ms. Jane Peterson, Planning and Special Projects Manager, Development Review Section, Planning Department

Mr. Steven F. Haasch, Planning Manager,

Plans and Information Section, Planning Department

Ms. Heather Barrar, Senior Planner,

Plans and Information Section, Planning Department

Ms. Stacy Taffer, Administrative Manager,

Plans and Information Section, Planning Department

Ms. Erica Hess, Administrative Assistant,

Plans and Information Section, Planning Department

Mr. Rob Robinson, Senior Assistant County Attorney,

County Attorney's Office

Ms. Tara McGee, Assistant County Attorney,

County Attorney's Office

Mr. Robert Clay, Planning and Special Projects Manager,

Development Review Section, Planning Department

Mr. Ryan Ramsey, Senior Planner,

Development Review Section, Planning Department

Ms. Teresa C. Davis, Planning and Special Projects Coordinator,

Development Review Section, Planning Department

Ms. Jessica Crews, Senior Planner,

Development Review Section, Planning Department

Mr. Ray Cash, Senior Planner,

Development Review Section, Planning Department

Mr. Jeff Lamson, Senior Planner,

Development Review Section, Planning Department

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Mr. James Banks, Assistant Director Transportation Department

Mr. Scott Smedley, Director

Environmental Engineering Department

Mr. Doug Pritchard, Senior Water Quality Analyst Environmental Engineering Department

Mr. Scott Flanigan, Senior Water Quality Analyst Environmental Engineering Department

Ms. Rachel Lumpkin, Engineering Supervisor, Utilities Department

Firefighter Greg Smith, Fire and Life Safety, Fire and EMS Department

Mr. Dave Wolverton, Microcomputer Analyst Information Systems Technology

4:00 P.M. ASSEMBLY, WORK SESSION AND PUBLIC MEETING.

CALL TO ORDER.

Dr. Brown, Chairman, called the meeting to order at 4:00 p.m., in the Public Meeting Room, Lane B. Ramsey Administration Building, 10001 Iron Bridge Road, Chesterfield, VA.

Messrs. Brown, Wallin, Gulley, Patton, and Waller, and staff assembled at 4:00 p.m. in the Public Meeting Room, Chesterfield County Administration Building, 10001 Iron Bridge Road Chesterfield, VA, for a work session.

I. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS, CHANGES IN THE ORDER OF PRESENTATION.

Mr. Gulley requested a new item be added to the agenda. The Commission resolved to include a new Item VIII, Wind Energy Systems and reordered the agenda as follows:

- I. Requests to Postpone Action, Emergency Additions, Changes in the Order of Presentation.
- II. Review Upcoming Agendas. (Any rezoning, conditional uses or conditional use planned developments scheduled for future meetings.)
- III. Review Day's Agenda. (Any items listed for the 6:00 p.m. Session.)
- IV. Work Program Review and Update.
- V. Planning Commission Follow-Up Items List.
- VI. (13PJ0125) Comprehensive Plan General Steps Implementation Update Phase I.
- VII. (14PJ0108) Subdivision Review Administrative Policies.
- VIII. Wind Energy Systems.
- IX. Recess.
- X. Call to Order.

- XI. Requests to Postpone Action, Emergency Additions or Changes in the Order of Presentation.
- XII. Review Meeting Procedures.
- XIII. Approval of the Planning Commission Minutes.
- XIV. Public Meeting. Consideration of the Following Proposal:
 - **A.** (14PJ0109) Alternative Financial Institutions Policy Revision.
- XV. Recess.

II. REVIEW UPCOMING AGENDAS.

Ms. Jane Peterson apprised the Commission of the caseload agendas for November and December 2013 and January and February 2014.

III. REVIEW DAY'S AGENDA.

Ms. Jane Peterson presented an overview of, and staff's recommendations for, requests to be considered at the 6:00 p.m. session.

IV. WORK PROGRAM - REVIEW AND UPDATE. WORK PROGRAM

Mr. Kirk Turner advised at the last Commission meeting, Mr. Waller had asked staff to explore rental property owners and their history of property maintenance violations. Mr. Turner advised staff will benchmark with other localities and Mr. Carl Schlaudt will provide an analysis and a presentation to the Commission at the January 2014 meeting.

Mr. Gulley commented that in the past, staff has taken a narrow view when benchmarking. He requested staff take a broader look going forward and referenced Schenectady, New York as being a good city for comparison. He advised while Schenectady is a good start, he would like the research to go beyond what has been done in the past.

Dr. Brown agreed that a broader search is needed in order to provide the Commission with benchmarking that is relevant to Chesterfield.

At Mr. Turner's request, Mr. Schlaudt addressed the Commission on the process and he advised staff was operating under the constraints of Virginia law. He advised that staff will look outside of Virginia and provide a revised list to the Commission at the January 2014 meeting.

V. PLANNING COMMISSION FOLLOW-UP ITEMS LIST. ■ FOLLOW-UP LIST

The Commission had no comments on the Follow-Up Items List.

VI. (13PJ0125) COMPREHENSIVE PLAN GENERAL STEPS IMPLEMENTATION UPDATE - PHASE I. :

Mr. Steve Haasch provided an overview in Dr. Pritchard's absence. He advised most of the projects have been completed however there are two (2) remaining projects that are still in the works; the

Utilities Ordinance and the Revitalization Strategy. Both of these projects should be moving toward public comment in the near future. The Phase II aspect of the project is approaching kick-off in the next few weeks and Dr. Pritchard will be reporting on those in upcoming Commission meetings.

In response to Mr. Gulley's question, Mr. Haasch indicated he would advise Dr. Pritchard the Commission would like a spreadsheet that compiles comments from individual Board and Commissioner meetings, similar to the spreadsheets made for the Comprehensive Plan.

VII. (14PJ0108) SUBDIVISION REVIEW ADMINISTRATIVE POLICIES. 🖹

Mr. Greg Allen indicated a report had been provided to the Commission in August 2013 advising what Chesterfield County had done to improve the subdivision processes over the past two (2) years. Staff visited with Henrico County and based upon that meeting, a synopsis was given as to why Henrico County's subdivision review process has shorter process times than Chesterfield County's process. The key difference between the two counties is Henrico's Planning Commission reviews the preliminary plat after only one review by staff. Their process calls for little or no citizen input, there are no posted signs, and no notifications going out to the public. Staff cannot compete with this timeframe unless we are willing to remove the public input process from our current procedures. Henrico also went through a two (2) year study evaluating how they could reduce the process with their plan reviews by taking away many other staff duties not directly related to plan review. They added and trained other staff to handle some of the plans review work duties for field work and erosion control review, and developed standardized detail and note sheets for consultants to use. Mr. Allen asked the Commission if they had ideas or comments.

Dr. Brown indicated Henrico has a fast subdivision review; however they don't seem to do all of the steps that Chesterfield does. In response to Dr. Brown's statement, Mr. Allen commented that Chesterfield has a very thorough construction review process that is well vetted and it produces very few problems for developers and contractors.

In response to Mr. Patton's question, Mr. Allen responded that the Henrico process utilizes more staff than Chesterfield therefore allowing them to process requests faster.

Dr. Wallin stated we should look at our system openly and objectively and continue to fine tune our system, maintain our standards and keep the public involved.

Mr. Turner stated he was very satisfied with the residential development in Chesterfield County. He explained that Chesterfield subdivisions do not have flooding, there is adequate water protection, water for domestic needs, and the County does a very good job with subdivision development. He concluded by saying staff does an excellent job with limited resources.

Dr. Brown agreed with other commissioners and does not want to reduce the amount of public input to our current standards.

VIII. WIND ENERGY SYSTEMS.

Mr. Gulley advised that the Planning Commission undertook ordinance changes due to a previous applicant. He stated the Planning Department has crafted guidelines regarding cell towers, cellular carriers have advised the Commission on industry standards and the Commission has gained good experience with crafting policy changes for cell towers. However, regarding Wind Energy Systems, the Commission has little experience. The ordinance for the Wind Energy Systems does not have a

fall zone requirement while the draft Tower Siting Policy does. The draft Tower Siting Policy has a condition in it that requires written approval from public facility departments for uses on that department's property. The wind energy systems ordinance does not have a condition that a written approval be provided.

Mr. Turner stated that when the Planning Commission adopted the restrictions for Wind Energy Systems, the Commission incorporated a larger setback that is adjusted based upon the height of the structure to accommodate a fall zone. It's not called a fall zone but it functions as one.

Mr. Gulley advised that the Commission looked at the Tower Siting Policy from a safety perspective. Wind energy structures are similar to cell towers and the placement of the structure must be taken into consideration for public safety, especially when located on public property. He feels the County should be held to the same standards as private industry when public safety is at stake.

Mr. Patton advised he felt staff did a good job with providing information about cell towers and the wind energy structures but he concurs with Mr. Gulley that the fall zones for both cell towers and wind energy structures must meet all safety standards. The County should be held to the same standard as private industry.

In response to Mr. Waller's question, Mr. Turner advised staff did benchmark with other localities, and findings were incorporated into the ordinance. He advised he didn't think staff could complete an analysis specifically on wind structures on public school property within the thirty (30) day deferral time frame. However, should other applications for wind structures come before the Commission, staff would be willing to do more research as it pertains to towers on public property.

Mr. Waller noted he felt the applicant has some shared responsibility and should have an obligation to show that what they propose meets appropriate guidelines.

Dr. Brown indicated the case would probably be deferred for thirty (30) days. The Planning Commission is supposed to determine if the case is in substantial accord with the Comprehensive Plan.

Mr. Turner advised the Commission that they do not have the ability to impose building standards that are more restrictive than the building code. The building code takes precedence in the design and installation of the structure. The Commission authority deals with the siting of the structure.

Dr. Wallin indicated he agrees with the Commission that safety is paramount and they should take their time in making this decision. He supports this type of hands-on education and hopes other schools become interested in studying wind energy.

Mr. Waller stated he would like to find out how the School Board feels about having this type of project. He would like to see the School Board advise the Commission what plans they have to grow this project to other school sites.

Mr. Gulley advised he would like staff to research what other schools in other localities are doing to give the Commission a comprehensive perspective for wind energy systems on public school property.

Mr. Turner advised staff would prepare a memo for the November 2013 meeting concerning wind turbines on school property.

IX. RECESS.

The Commission recessed at 4:56 for the 4:00 p.m. public meeting.

4:00 P.M. PUBLIC MEETING.

X. CALL TO ORDER.

Dr. Brown, Chairman, called the meeting to order at 4:59 p.m., in the Public Meeting Room, Lane B. Ramsey Administration Building, 10001 Iron Bridge Road, Chesterfield, VA.

XI. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

There were no requests to postpone action, emergency additions or changes in the order of presentation.

XII. REVIEW MEETING PROCEDURES.

Mr. Turner advised he would review the meeting procedures at the 6:00 p.m. meeting.

XIII. <u>APPROVAL OF MINUTES</u>:

August 20, 2013 Minutes.

On motion of Mr. Gulley, seconded by Dr. Wallin, the Commission resolved to approve the August 20, 2013 Planning Commission minutes.

AYES: Messrs. Brown, Wallin, Gulley, Patton and Waller.

September 17, 2013 Minutes.

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On motion of Mr. Patton, seconded by Dr. Wallin, the Commission resolved to approve the September 17, 2013 Planning Commission minutes.

AYES: Messrs. Brown, Wallin, Patton and Waller.

ABSTAIN: Mr. Gulley.

XIV. PUBLIC MEETING.

A. (14PJ0109) ALTERNATIVE FINANCIAL INSTITUTIONS PROPOSED POLICY REVISION.

Mr. Ray Cash presented an overview of policy revision to Alternative Financial Institutions. He reported that the existing Policy established general guidelines to be used for evaluation of zoning applications for Alternative Financial Institutions. Following a recommendation by the Planning Commission, the Policy was adopted by the Board on April 10, 2013. After the Board and Planning Commission had considered several cases regarding AFIs, they felt the negative impact of AFIs was greater when in freestanding buildings. Staff was directed to draft a policy revision based upon this concern. The proposed policy revision includes minor changes to the introduction language; new

guidelines stating AFIs shall be located within a shopping center and within a building which is designed, constructed or repurposed for use and occupancy by three (3) or more tenants. The Board referred the policy on August 28, 2013 to the Planning Commission for revision, consideration and recommendation.

Dr. Brown opened the floor for public comment.

Ms. Dana Wiggins, from the Virginia Poverty Law Center, expressed support for the policy revisions imposing more requirements for AFIs. She said the more restrictions placed on AFIs, the less people get into financial trouble. The less contact people have with these institutions the less entrapment there is; especially in areas needing revitalization.

Ms. Murial Faup, a retired teacher and resident of the neighborhood behind the proposed freestanding AFI would like the Commission to vote against AFIs. She expressed her concern about this use locating in a building near her residence. She commented on the juxtaposition of this AFI to Henricus Park and how this presents a negative impression to the numerous visitors to our historic sites in the Route 1 corridor.

There being no one else to speak, Dr. Brown closed the public hearing.

On motion of Mr. Patton, seconded by Dr. Brown, the Commission resolved to recommend approval of the revisions to the Alternative Financial Institutions Policy.

Planning Commission and Board of Supervisors Zoning Guidance

(NOTE: The following general guidelines will be used for evaluation of zoning applications for alternative financial institutions. Compliance with these guidelines will not automatically address all site or operationally specific concerns associated with a particular zoning application. Additional conditions of zoning may be imposed and/or recommended to address such concerns, or to insure compliance with the Plan for Chesterfield comprehensive plan or the purposes of the Zoning Ordinance.)

- A. Definition: Alternative financial institutions (AFIs) provide short-term, high-interest personal lending services. These institutions include: check cashing establishments (not including incidental check cashing), motor vehicle title lenders, pawnbrokers, payday lenders and other businesses with similar business models and land use impacts that are not specifically enumerated by the Zoning Ordinance, as determined by the Director of Planning. For the purposes of this policy, AFIs do not include banks, credit unions, savings and loan associations, or precious metals dealers.
- B. *Criteria:* AFIs should be located in compliance with the following criteria and standards:

Criteria	Standards
Co-location	A maximum of one AFI shall be permitted in a single building. One type of AFI shall not offer services associated with another type of AFI. However, this provision shall not prohibit payday lenders from offering check cashing services.
Locational Requirements	AFIs shall be located within a shopping center and within a building which is designed, constructed or repurposed for use and occupancy by three or more separate tenants.

Comprehensive Plan Designation	AFIs shall be located only in areas designated by the Comprehensive Plan for General Business use. Special consideration may be given to areas designated for Community Business use, based on proffered conditions providing adequate land use transition and compatibility.				
Distance Separation	A minimum distance separation of 5,280 feet shall be provided between AFIs, as measured between closest property lines.				
Proximity to Residential Uses	AFIs shall not be located on property that is contiguous to property designated on the Comprehensive Plan for residential use, or is zoned or developed for residential uses.				
Revitalization Areas	AFIs shall not be located in any of the following areas: • Eastern Midlothian Turnpike • Eastern Route 360 Corridor (Route 150 to Route 288) • Ettrick / VSU • Meadowdale / Meadowbrook Area • Northern Jefferson Davis Corridor				
Signage	 Signs advertising AFIs shall conform to approved sign packages (as applicable) within non-residential communities (e.g. shopping centers). AFIs shall not display exposed neon window signs other than "open" for business signs. 				

AYES: Messrs. Brown, Wallin, Gulley, and Patton.

NAYS: Mr. Waller.

XV. RECESS.

There being no further business to discuss, the Commission recessed the Afternoon Session at 5:03 p.m., agreeing to meet in the Executive Meeting Room for dinner; and to reconvene in the Public Meeting Room at 6:00 p.m. for the public hearing.

5:00 P.M. DINNER - EXECUTIVE MEETING ROOM.

During dinner, there was general discussion on topics related to the Planning Commission.

6:00 P.M. PUBLIC HEARING.

I. <u>INVOCATION</u>.

Dr. Brown presented the invocation.

II. PLEDGE OF ALLEGIANCE TO THE FLAG OF UNITED STATES OF AMERICA.

The Commission led the Pledge of Allegiance to the Flag.

III. REVIEW AGENDAS FOR UPCOMING MONTHS.

Mr. Kirk Turner apprised the Commission of the caseload agendas for November and December 2013, and January and February 2014.

IV. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

There were no requests to postpone action, emergency additions or changes in the order of presentation.

V. REVIEW MEETING PROCEDURES.

Mr. Kirk Turner reviewed the meeting procedures.

VI. <u>CITIZENS' COMMENT ON UNSCHEDULED MATTERS</u>.

There were no citizens' comments on unscheduled matters.

VII. PUBLIC MEETING.

A. (13PJ0104) TOWER SITING POLICY.

Mr. Robert Clay provided a brief update on the amendments to the Tower Siting Policy. In April 2010, the Commission requested a re-evaluation of the current Tower Siting Policy, adding it to their work program. Action on the Tower Siting Policy was delayed until the adoption of *Moving Forward- the Comprehensive Plan for Chesterfield County* in October 2012. In January 2013, the Commission invited the telecommunication industry to participate in a work session, allowing the Commission to get important information directly from industry experts. Throughout this process, staff provided research to the Commission which included benchmarking with other localities and at the April and June 2013 work sessions, staff presented the Commission with information to form the basis for a new draft policy. In August 2013, the Commission held a work session to review the final draft of the Tower Siting Policy and directed staff to schedule consideration of the draft policy to include public input for the public meeting at the October 2013 Planning Commission meeting. In addition, telecommunication representatives and individuals from the quarterly development meeting were invited to participate in today's meeting.

Dr. Brown opened the floor for public comment.

Mr. Donald Hoover, Project Manager with Dominion Virginia Power stated Chesterfield County is the only county in the State that does not allow platforms on cell towers. Safety is needed for workers servicing the towers. Flush mounts do not allow for assisting workers. If the safety equipment fails, a worker can be helped much faster, without service interruption to the customer, if a platform exists.

Mr. Bill Parrish with Dominion Virginia Power said from a lineman perspective, safety is an issue when no platform exists on a tower. Platforms allow for rescue and create a safer work environment. For regular maintenance to the towers, the platforms create an environment where work can be done more efficiently and safely.

In response to Dr. Brown's question, Mr. Parrish referenced the need for platforms on power transmission towers where cell arrays are located.

In response to Mr. Waller's question, Mr. Parrish explained the difference between an aerial platform and a work platform. An aerial platform is a bucket truck or crane and the work platform is a stationery fixture mounted to the tower.

Mr. Frank Mayer with Verizon Wireless explained that a flush mounted antenna takes up more vertical real estate more quickly and with four (4) carriers seeking placement, it makes it harder to accommodate everyone.

There being no one else to speak, Dr. Brown closed the public hearing.

Dr. Brown indicated he heard two (2) issues. The first issue is safety and it should be addressed in the Tower Siting Policy. He stated he does not see where work platforms are specifically excluded so the language should include allowing work platforms when cellular arrays are located on other towers or structures such as power transmission towers.

Mr. Gulley advised he did not realize platforms are not allowed in Chesterfield. He agreed it is a safety issue for linemen and agrees if you don't have to de-energize the line, service can remain uninterrupted.

Mr. Patton stated he feels like the flush mount aesthetic was an oversight and safety is a concern and supports a platform.

Dr. Brown stated his second issue is with the distance a flush mounted antenna can be located from the face of the tower structure. He feels that part of the problem is where the measurement is taken.

Dr. Brown asked Verizon's representative, Mr. Mayer to provide clarification regarding the measurement and placement of antennas. Mr. Mayer also advised he could get measurements and photos to help the Commission better understand the issue and those items will be sent to Mr. Robert Clay.

Mr. Gulley advised he has some questions about setback wording and he feels the Commission should be concerned about what specifically can be inside a fall zone.

Dr. Brown advised Mr. Clay that the three (3) issues just discussed will require more explicit wording from him to the Commission.

On motion of Dr. Brown, seconded by Mr. Patton, the Commission deferred the Tower Siting Policy to the November 19th meeting at the 4pm session.

AYES: Messrs. Brown, Wallin, Gulley, Patton and Waller.

Dr. Brown thanked Mr. Robert Clay for his efforts regarding the Tower Siting Policy.

Dr. Brown thanked Mr. Reuben Waller for being the Commission's representative regarding this project.

VIII. PUBLIC HEARING.

DEFERRAL REQUESTS BY INDIVIDUAL PLANNING COMMISSIONERS.

B. 14SN0508***: In Bermuda Magisterial District, **Centralia Station LLC** requests amendment of zoning (Case 93SN0147) relative to density and access and amendment of zoning district map in Agricultural (A) and Residential (R-7, R-9 and R-12) Districts on 73.3 acres fronting 20 feet on the south line of Centralia Road, 510 feet on the east line of Centralia Station, 600 feet west of Chester Road. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Residential use (1 and 1.5 dwelling per acre or less). Tax ID 786-660-5178.

Mr. Patton declared a conflict of interest at 6:32 p.m. and left the discussion.

Dr. Brown indicated this case is on the agenda because the Commission was unable to make a decision last month and the case was deferred to the current meeting.

Mr. Turner indicated the applicant has consented in writing to a sixty (60) day deferral to the December meeting.

Dr. Brown opened the floor for public comment.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Dr. Brown closed the public hearing.

On motion of Dr. Wallin, seconded by Mr. Waller, the Commission on their own motion and with the applicant's consent, resolved to defer Case 14SN0508 to the December 17, 2013 Planning Commission Public Hearing.

AYES: Messrs. Brown, Wallin, Gulley, and Waller.

ABSENT: Mr. Patton.

Mr. Patton returned to the meeting at 6:35 p.m.

C. <u>14PD0120</u>: In Clover Hill Magisterial District, Clover Hill High School requests substantial accord determination to permit a wind energy system and amendment of zoning district map in an Agricultural (A) District on 64.2 acres known as 13301 Kelly Green Lane. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Regional Mixed use. Tax ID 732-687-3969.

Dr. Brown opened the floor for public comment.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Dr. Brown closed the public hearing.

Mr. Gulley indicated he and Mr. Waller will be working with school staff and engineers on the placement of the wind turbine and to ensure that the fall zone will not be detrimental to the students on campus and that the School Board supports this effort.

On motion of Mr.Gulley, seconded by Mr. Waller, the Commission on their own motion and with the applicant's consent, resolved to defer Case 14PD0120 to the November 19, 2013 Planning

Commission Public hearing.

AYES: Messrs. Brown, Wallin, Gulley, Patton and Waller.

• <u>CASES WHERE THE APPLICANT ACCEPTS STAFF'S RECOMMENDATION AND</u> THERE IS NO PUBLIC OPPOSITION.

- D. 14SN0511: In Bermuda Magisterial District, Cheryl L. Taylor requests conditional use to permit a communications tower and amendment of zoning district map in an Agricultural (A) District on 1.1 acres lying off the eastern terminus of Pine Forest Drive, east of Jefferson Davis Highway. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Industrial use. Tax ID 803-631-Part of 2296.
 - Ms. Cheryl Taylor, the applicant, accepted staff's recommendation.
 - Dr. Brown opened the floor for public comment.

No one came forward to speak in favor of, or in opposition to, the request.

There being no one to speak, Dr. Brown closed the public hearing.

On motion of Mr. Patton, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 14SN0511 subject to the following conditions:

CONDITIONS

- 1. The base of the tower shall be enclosed by a minimum six (6) foot high fence designed to preclude trespassing. The fence shall be placed so as to provide sufficient room between the fence and the property line to accommodate evergreen plantings having an initial height and spacing to provide screening of the base of the tower and accessory ground-mounted equipment or structures from adjacent properties. A detailed plan depicting this requirement shall be submitted to the Planning Department for approval in conjunction with final site plan review. (P)
- 2. The color and treatment of the tower shall be as follows:
 - The tower shall be gray or another neutral color, acceptable to the Planning Department.
 - b. The tower shall not be lighted unless lighting is required by the FAA. If lighted, lighting during daylight hours shall be limited to medium intensity strobe lights with upward reflection and lighting during night-time hours shall be limited to soft blinking lights with upward reflection.
 - c. The tower shall be a monopole structure. (P)
- 3. Any building or mechanical equipment shall comply with Section 19-570 (b) and (c) and 19-595 of the Zoning Ordinance relative to architectural treatment of building exteriors and screening of mechanical equipment. (P)

(NOTE: Section 19-570 (b) and (c) would require the screening of mechanical equipment located on the building or ground from adjacent properties and public rights-of-way. Screening would not be required for the tower or tower-mounted equipment.)

- 4. At such time that the tower ceases to be used for communications purposes for a period exceeding twelve (12) consecutive months, the owner/developer shall dismantle and remove the tower and all associated equipment from the property. (P)
- 5. With approval of this request, prior to issuance of a final certificate of occupancy for the proposed tower, the existing tower located on Tax ID 803-631-Part of 2296, south of this site, shall be removed. (P)

AYES: Messrs. Brown, Wallin, Gulley, Patton and Waller.

• <u>CASE WHERE THE APPLICANTS DO NOT ACCEPT STAFF'S RECOMMENDATION</u> AND THERE IS PUBLIC OPPOSITION.

A. 135N0543*: In Midlothian Magisterial District, Racetrack Petroleum, Inc. requests rezoning from Agricultural (A) to Community Business (C-3) and amendment of zoning district map on 11 acres located in the southeast corner of Midlothian Turnpike and Otterdale Woods Road. Density will be controlled by zoning conditions or ordinance standards. The Comprehensive Plan suggests the property is appropriate for Suburban Commercial District use. Tax ID 721-709- 7721 and 722-709-0435.

Mr. Turner indicated after the advertisement of the case, the applicant withdrew a portion of the property from the request and changed the proposal of the remaining property to a request for (C-2) zoning.

Mr. Robert Clay provided an overview regarding design features, future extension of Otterdale Woods Road and future road improvements. Mr. Clay advised staff has transportation concerns due to the Otterdale Woods Road access, therefore staff recommends denial for this request. He added the Transportation Department expressed concerns relative to Otterdale Woods Road and traffic issues.

In response to Mr. Gulley's question about what the Comprehensive Plan shows for the area in green, Mr. Clay indicated this area would be best for an office park and it would be consistent with the Comprehensive Plan.

Mr. Jack Wilson, the applicant's representative did not accept staff's recommendation. He indicated they have had meetings with the public and with the Midlothian Village Coalition. As a result of these meetings with citizens, the case is a much better one. Raceway believes they have addressed citizen concerns with proffers and since the Comprehensive Plan does support commercial uses for this property a (C-3) zoning would have been consistent with the Comprehensive Plan. However, as a result of community input, Racetrack will seek a (C-2) versus (C-3) zoning. To address the concerns expressed by citizens, Racetrack will agree to limit the hours of dumpster pickup. To address safety concerns regarding the fuel pumps, Racetrack has agreed to make the fuel pumps inoperable when the store is closed. Racetrack agrees to a significant buffer between the business and the neighborhood and that the vegetation that exists will continue to exist; and Racetrack agreed to screen the BMP. Due to community input regarding the original design of the building, Racetrack agreed to split the canopy that covers the pumps and has changed the building design to fall more in

line with other new construction architecture in Midlothian Village. Regarding the full access off of Otterdale Woods Road, Racetrack has provided many improvements that were recommended by the Transportation Department to satisfy safety concerns.

Dr. Brown opened the floor for public comment.

Mr. Carl Schwendeman; Mr. Brad Arnold; Mr. Steven Dreissigacker; Mr. Heath Meyer; Mr. Art Bueler Mr. David Hayes; Ms. Brenda Hayes; Mr. Doug Catho; Mr. Rob Tignor; Mr. Robert Tulloh; Mr. Larry Edwards; Mr. Robert Jones; Mr. George Bowles; Mr. Wray Brown; Ms. Susan Brown; Mr. William Harvey; Ms. Mary Ann Harvey; Mr. Chad Nixon; Ms. Sheila Curnow; Mr. Scott Curnow; Mr. Scott Lasowitz; Mr. Trip Humphrey; Mr. Brett Butler; Ms. Martha Butler; and Mr. Alvin Hunter voiced opposition to the request, expressing concerns specific to the building of a fueling station on eleven (11) acres located in the southeast corner of Midlothian Turnpike and Otterdale Woods Road. Specific issues raised included creating excess noise, lights, loitering, littering, decreasing home values, negative environmental issues for wetlands, threats to the neighborhood water supply and traffic safety issues.

In rebuttal, Mr. Jack Wilson addressed the concerns explaining that Racetrack complies with the Comprehensive Plan for suburban commercial use. He advised that the concerns of store hours of operation will be dictated by the market. While Racetrack would like the ability to be open twenty-four (24) hours a day, they will not keep a store open during a time when there are no customers. Many of Racetrack's stores are closed from twelve (12) to five (5) a.m. however the proximity to Route 288 will dictate; if there is enough market demand for this site to be open twenty-four (24) hours a day. They have proffered that if the fuel pumps are closed, the store will be closed. The applicant has proffered to place additional turn lanes on Otterdale Road as well as turn signals. The buffer plan was shown at the last community meeting and all of the trees that will be left exceed what is required by the Commission. All light poles will be directed down to avoid light pollution and the height will be limited.

In response to a question from Mr. Waller, Mr. Wilson responded the wetlands delineation was approved.

In response to a question from Dr. Brown, Mr. Rob Robinson responded that the applicant is required to maintain the property identified as a preservation area.

There being no one else to speak, Dr. Brown closed the public hearing.

Mr. Waller indicated he has concerns with comments made about how the applicant has handled the case and asked the other Commissioners to voice their opinions about the comments made by the twenty-five (25) people that spoke.

Mr. Patton stated the applicant provided architectural standards acceptable to the Bermuda District. The Comprehensive Plan overview states that commercial uses will be more suited for the Midlothian area and that this is a land use guestion and the Commission is here for a land use case.

Mr. Gulley stated the Comprehensive Plan shows commercial use in this node and this use was appropriate. He would have preferred a scaled down version of the gas station; however the use is allowed, and it complies with the Comprehensive Plan.

Mr. Waller stated the economy and market will drive the development of the surrounding property.

In response to a question from Mr. Waller, Mr. Jim Banks replied that the Transportation Department assisted the applicant in styling the proffer so it would meet all of the requirements should full access be provided. He indicated the applicant has the ability to acquire the right of way or go to an adjacent property owner and ask to purchase some of their land.

Mr. Waller advised based upon the location of this fueling station, it is in an area where certain services are expected once you leave an interstate road or Route 288. He explained that Proffer sixteen (16) states the fueling pumps will not be open when the store is closed, the land use was moved from (C-3) to (C-2) and the applicant will provide a buffer for the existing neighborhood. He stated he would support the case.

Dr. Wallin expressed concern with the number of citizens present in opposition to the case. He does feel the applicant has made strides in meeting many of the requested requirements and that this is a land use case. He acknowledged Mr. Waller has spent a lot of time meeting with the community on this case and is prepared to follow Mr. Waller's lead when voting.

Mr. Turner advised Mr. Waller that he needs to acknowledge withdrawal of a portion of the property.

Mr. Waller acknowledged his withdrawal.

On motion of Mr. Waller, seconded by Dr. Wallin, the Commission resolved to recommend approval of Case 13SN0543, subject to the following proffered conditions:

PROFFERED CONDITIONS

The property owner and applicant in this case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors and assigns, proffer that the property under consideration (the "Property") will be developed according to the following proffers if, and only if, the request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owner and applicant, the proffers shall immediately be null and void and of no further force or effect.

- 1. <u>Site Plan</u>. Except for access locations which will be determined at the time of Site Plan review, should the Property be used for a convenience store with gasoline sales, it shall be developed in substantially the manner shown on the Site Plan attached as Exhibit A. (P)
- 2. <u>Prohibited Uses</u>. The following uses shall not be permitted on the Property:
 - a. Rental of health and party equipment, and small home hardware, tools and equipment;
 - b. Bicycle sales and rentals;
 - c. Dry cleaning, pick-up and drop-off, coin operated dry cleaning, pressing; laundry and Laundromat; not to include dry cleaning plants; and

- d. Massage clinics (P)
- 3. <u>Utilities</u>. The public wastewater systems shall be used. (U)
- 4. <u>Elevations</u>. Should the Property be used for a convenience store with gasoline sales the exterior facades of the improvements on the Property shall be substantially similar to the elevations shown on Exhibit B. (P)
- 5. <u>Buffers</u>. Buffers as shown on Exhibit C shall be maintained on the Property. The Buffer on Otterdale Woods Road shall extend 25 feet south of the site entrance. The 50-foot buffers depicted on the plan shall comply with Zoning Ordinance requirements for 50-foot buffers. A plan depicting these requirements shall be submitted to the Planning Department for review and approval in conjunction with Site Plan review. (P)
- Light Poles. Any light poles on the Property shall be no more than 25 feet in height.
 (P)
- 7. <u>Signage</u>. Any sign located on the Property fronting Midlothian Turnpike (Route 60) shall be at least 50 feet east of Otterdale Woods Road. (P)
- 8. <u>Construction</u>. All construction traffic shall enter and exit the Property exclusively from Midlothian Turnpike (Route 60), subject to VDOT approval. This condition shall not apply to the construction of the road improvements on Otterdale Woods Road. (P and VDOT)
- 9. <u>Dumpster Service</u>. Dumpster service for the Property shall be permitted only between the hours of 7:00 a.m. and 7:00 p.m. (P)
- 10. <u>Dedication</u>. Prior to any site plan approval, or within sixty (60) days of a written request by the Transportation Department, whichever occurs first, fifty (50) feet of right-of-way on the east side of Otterdale Woods Road, measured from the centerline of that part of Otterdale Woods Road immediately adjacent to the Property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)

11. Access.

- a. Direct vehicular access from the property to Midlothian Turnpike (Route 60) shall be limited to one (1) entrance/exit. The exact location of this access shall be approved by the Transportation Department. Prior to final site plan approval, an access easement, acceptable to the Transportation Department, shall be recorded from the Route 60 access to serve the adjacent property to the east.
- b. Direct vehicular access from the property to Otterdale Woods Road shall be limited to one (1) entrance/exit. The exact location of this access shall be approved by the Transportation Department. (T)

- 12. <u>Road Improvements</u>. Prior to issuance of a certificate of occupancy on the property, the following road improvements shall be provided:
 - Construction of an additional lane of pavement along the eastbound lanes of Route 60 for the entire Property frontage.
 - b. Construction of additional pavement along the eastbound lanes of Route 60 at the approved access to provide a separate right turn lane;
 - c. Extension of the Route 60 westbound left turn lane at the Route 60/Otterdale Woods Road intersection to provide an adequate left turn lane;
 - d. Construction of additional lanes of pavement along Otterdale Woods Road at the approved access to provide left and right turn lanes;
 - e. Construction of an additional lane of pavement along the northbound lanes of Otterdale Woods Road at the Route 60/Otterdale Woods Road intersection to provide a separate right turn lane;
 - Full cost of traffic signal modifications at the Route 60/Otterdale Woods Road intersection, if warranted, as determined by the Transportation Department;
 - g. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above.
 (T)
- 13. <u>Drainage</u>. Storm drainage from the impervious/developed portion of the property shall be released into the adjacent preserved wetlands at a rate of no more than the pre development 2 year discharge rate up through the post development 100 year storm event. All drainage facilities shall be screened from Midlothian Turnpike (Route 60). (EE)
- 14. <u>Preservation Area.</u> The area shown on Exhibit C identified as Preservation Area contains wetlands. In order for its present function of holding back storm water runoff from downstream development to be incorporated into the storm water management program for the upland site development, it shall be maintained in perpetuity as an undisturbed vegetative area with no improvements other than driveways, utilities, and storm water facilities. (EE)
- 15. <u>Timbering</u>. Timber management, for the purpose of enhancing the health and viability of the forest, shall occur under the supervision of a qualified forester, and will only be allowed upon the submission and approval of the appropriate forest management plan to include, but not limited to, erosion control, Chesapeake Bay Act/wetland restrictions, and the issuance of a land disturbance permit by the

Environmental Engineering Department. Any other timbering shall be incorporated into the site development erosion and sediment control plan/narrative as the initial phase of infrastructure construction and will not commence until the issuance of the actual site development land disturbance permit. (EE)

AYES: Messrs. Brown, Wallin, Gulley, Patton and Waller.

The Commission recessed at 8:02 p.m. The Commission reconvened at 8:07 p.m.

E. (14PJ0112) CODE AMENDMENT RELATIVE TO THE KEEPING OF CHICKENS IN RESIDENTIAL DISTRICTS.

An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting Sections 19-65 and 19-301 of the Zoning Ordinance relating to keeping of chickens in Residential Districts. This amendment would allow (with certain restrictions relating to, among other things, number and kind of chickens, nature and dimensions of the chicken coop and outside run, fencing, setbacks, etc.), the keeping of chickens in Residential Districts and remove and separately define the term "chicken" from the definition of "residential stock farm."

Ms. Jane Peterson provided an overview requesting the Commission make a recommendation by November 2013 regarding the keeping of chickens, addressing the restricted use, maximum number of chickens, enclosure size, location, building and run area, prohibited slaughtering, and the definition of chicken.

Ms. Peterson explained the code sections affected are the R-88 District, Section 19-65, concerning seven (7) single-family zoning districts that range from R-7 to R-88 which all refer to R-88 for restricted uses. Under definitions, Section 19-301, separate chickens from residential stock farm and define chickens separately. Chicken keeping becomes a use permitted in single-family districts subject to certain restrictions. If restrictions cannot be met, conditional use is required. The first restriction is that the keeping of chickens is incidental to a dwelling; that there be a maximum of four (4) chickens with no roosters; chickens should be kept in an enclosure for safety and to prevent a possible nuisance. A single building with an attached fenced outside run is recommended. The building should be a minimum of ten (10) square feet up to a maximum of twenty (20) square feet with the outside run being at least five (5) square feet up to a maximum of forty (40) square feet. The enclosure should be secured on the top and sides. The location of the enclosure should be in the rear yard, with a twenty-five (25) foot minimum setback from all property lines. The slaughter of chickens will be prohibited. The definition of chicken will be a domestic laying hen not inclusive of other types of fowl and remove chicken from residential stock farm definition.

Dr. Brown opened the floor for public comments.

Mr. Nicholas Johnson; Mr. James Love; Mr. Greg Hairston; Mr. David Bova; Ms. Virginia Summers; Ms. Ryann Barnum; Ms. Denise Tipton; Ms. Amanda Freed and Mr. Steve Meadows voiced support for the code amendment relative to the keeping of chickens, noting they all feel that six (6) chickens is the number to have as it meets State requirements as chickens are sold in quantities of six (6), they support the size of the enclosures and runs as well as the setbacks.

There being no one else to speak, Dr. Brown closed the public hearing.

- Mr. Patton advised he supports changing the number of chickens allowed from four (4) to six (6.)
- Dr. Wallin indicated he supports the number of hens being increased from four (4) to six (6).
- Mr. Gulley expressed concern with allowing chickens on smaller lots. He also indicated some neighborhoods do not allow the keeping of fowl and this is an instance where government is placing an undue hardship on a Home Owners Association to enforce covenants, and he is not in favor of the amendment for small lot subdivisions.

On motion of Dr. Wallin, seconded by Mr. Waller, the Commission resolved to recommend approval of the Code Amendment Relative to the Keeping of Chickens in Residential Districts, Sections 19-65 and 19-301 with the number change from four (4) to six (6) hens.

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF CHESTERFIELD, 1997, AS AMENDED, BY AMENDING AND RE-ENACTING SECTIONS 19-65 AND 19-301 OF THE ZONING ORDINANCE RELATING TO THE KEEPING OF CHICKENS IN RESIDENTIAL ZONING DISTRICTS

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

(1) That Sections 19-65 and 19-301 of the Code of the County of Chesterfield, 1997, as amended, are amended and re-enacted, to read as follows:

CHAPTER 19

ZONING

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Sec. 19-65. Uses permitted with certain restrictions.

The following uses shall be permitted in the R-88 District subject to compliance with the following conditions and other applicable standards of this chapter. If these restrictions cannot be met, these uses may be allowed by conditional use, subject to section 19-13:

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- (k) Keeping of chickens provided that:
 - (1) The use is incidental to a dwelling on the premises;
 - (2) A maximum of four (4) chickens are kept;
 - (3) Roosters are not kept;
 - (4) At all times, chickens are kept within a single building having a single attached fenced outside run as follows:
 - a. The building is a minimum of 10 square feet and a maximum of 20 square feet;
 - b. The fenced outside run area is a maximum of 40 square feet and has a minimum area of 5 square feet per chicken; and

- c. The fenced outside run area is securely enclosed on the top and sides with a wire mesh or similar material;
- (5) The building and attached outside run area are located in the rear yard and setback a minimum of 25 feet from all property lines; and
- (6) Slaughtering of chickens does not occur.

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19-301. Definitions.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

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Chicken: A domestic egg-laying hen belonging to the subspecies Gallus gallus domesticus and does not refer to any other type of fowl or game bird.

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Stock Farm, residential: A parcel of land on which are kept one or more cows, sheep, goats, horses, chickens or other fowl <u>other than chickens</u>, rabbits or other small domesticated livestock, or other farm animals.

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(2) That this ordinance shall become effective immediately upon adoption.

AYES: Messrs. Brown, Wallin, Patton and Waller.

NAYS: Mr. Gulley.

F. (14PJ0101) CODE AMENDMENT RELATIVE TO TREE CANOPY REQUIREMENTS IN UPPER SWIFT CREEK.

Ordinances to amend the Code of the County of Chesterfield, 1997, as amended, by amending and reenacting Sections 19-240 through 19-240.4 of the Zoning Ordinance relating to the preservation of trees during development of single family residential projects in the Upper Swift Creek Watershed. Among other things, these amendments allow for compliance with tree canopy area requirements on an overall project basis; provide tree canopy area standards for new plantings per the Chesterfield County Plan Materials List; revise minimum size standards to conform to Sec. 19-518; clarify that construction plans shall include landscape plans prepared in accordance with Sec. 19-517; require a tree canopy master plan to be submitted with new preliminary plats and for any subdivision requesting compliance on an overall project basis; and assign oversight responsibilities to the Planning Department.

Mr. Jeff Lamson provided an overview, explaining the amendment was adopted in September 2008 requiring tree preservation and tree replacement during development. This amendment applies to single-family residential subdivision projects within the Upper Swift Creek Watershed area. The amendment is in response to concerns by the development community and will allow flexibility for

compliance on an overall development basis rather than on each individual construction plan and to establish criteria for tree canopy area credits for planted trees. This amendment proposes that requests be made in writing with the submission of a master tree canopy plan. The tree canopy master plan will be an overall guide for each construction plan and establish in advance the areas to be set aside for preservation or planting. In addition, it will provide criteria for credits for planted trees to the development community.

Dr. Brown opened the floor for public comments.

In response to a question by Mr. Steve Meadows, Mr. Lamson stated this amendment will provide flexibility to the development community to comply with the standards on a project basis. Currently the tree canopy requirements are twenty (20) percent of the overall development but not twenty (20) percent of the tree canopy per lot.

Mr. Turner expanded upon the description and indicated that by clustering the tree canopy and creating a larger stand of trees, it produces healthier trees and habitat protection.

In response to a question by Mr. Waller, Mr. Doug Pritchard stated that no developer had asked for an exception in the last year concerning Section 19-240.3.

There being no one else to speak, Dr. Brown closed the public hearing.

On motion of Dr. Brown, seconded by Mr. Waller, the Commission resolved to recommend approval of the Code Amendment Relative to Tree Canopy Requirements in Upper Swift Creek.

AN ORDINANCE TO AMEND THE <u>CODE OF THE COUNTY</u>
<u>OF CHESTERFIELD</u>, 1997, AS AMENDED, BY AMENDING
AND RE-ENACTING SECTIONS 19-240 THROUGH 19-240.4 RELATING
TO THE PRESERVATION OF TREES DURING DEVELOPMENT IN
THE UPPER SWIFT CREEK WATERSHED

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

(1) That Sections 19-240 through 19-240.4 of the <u>Code of the County of Chesterfield</u>, 1997, as amended, are amended and re-enacted to read as follows:

CHAPTER 19 ZONING

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Sec. 19-240. Tree planting, replacement and preservation in the Upper Swift Creek

Watershed.

The purpose of Sections 19-240 through 19-240.4 is to promulgate regulations for the planting and replacement of trees destroyed or damaged during the development or redevelopment process for single-family residential projects, pursuant to Section 15.2-961 of the Code of Virginia, including the preservation of trees during development in appropriate instances.

Sec. 19-240.1. General Standards.

- (a) All trees to be planted shall meet the specifications of the American <u>Nursery</u> and <u>Landscape</u> Association of Nurserymen.
- (b) The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Nursery and Landscape Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation. The county shall maintain current copies of these specifications available to the public.
- (c) The minimum size standards for trees shall be in accordance with Section 19-518 (b). The minimum caliper of all deciduous trees planted shall be one (1) inch, and the minimum height of all evergreen trees shall be six (6) feet.
- (d) The canopy area of planted trees shall be in accordance with the

 Chesterfield County Plant Materials List as maintained by the planning

 department. Canopy credit for trees not included on the Chesterfield County

 Plant Materials List may be approved by the planning department based on

 credible published documentation.

Sec. 19-240.2. Canopy Requirements.

- (a) Construction plans. All construction plans for subdivision plats shall include detailed landscape plans prepared in accordance with Section 19-517 to provide for the planting and replacement of trees on site to the extent that, at maturity of twenty (20) years, the minimum tree canopy shall be as follows:
 - (1) Fifteen (15) percent tree canopy for sites zoned single family residential, with densities between ten (10) and twenty (20) units per acre.
 - (2) Twenty (20) percent tree canopy for sites zoned single family residential, with densities of ten (10) units or less per acre.

Upon written request, the director of planning may grant approval for any residential project to comply with tree canopy requirements of Sections 19-240 through 19-240.4 on an overall project basis. Compliance on an overall basis will require review and approval of a tree canopy master plan in accordance with Section 19-240.2 (b) (2).

The plan shall show in graphic format all areas set aside to satisfy tree canopy requirements and the means by which such requirements will be satisfied.

(b) Tree Canopy Master Plan.

- (1) All preliminary subdivision plats submitted after <insert adoption date of this amendment> shall include a tree canopy master plan for review and approval.
- (2) The tree canopy master plan shall serve as a guide to be followed for each construction plan, and shall be updated during the development of the overall residential project. Any revision must be submitted for review and approval by the director of planning. The plan shall show in graphic format all areas set aside to satisfy tree canopy requirements and the means by which such requirements will be satisfied.
- (b) (c) **Exclusions.** For the purpose of calculating the area of a site for tree canopy coverage requirements, the following areas shall be excluded:
 - (1) Ponds and unwooded nonwooded wetlands.
 - (2) Properties reserved or dedicated for school sites, playing fields and other nonwooded recreation areas, and other facilities and areas of a similar nature.
 - (3) Portions of a site which contain existing structures that are not the subject of a pending application.
- (e) (d) Credits for Preservation of Existing Trees. Existing trees which are to be preserved may be included in the calculation of the canopy requirements, and may include wooded preserves, if the construction plans identify such trees and the trees meet standards of desirability and life-year expectancy as established by the director of environmental engineering planning.

Sec. 19-240.3. Exceptions to Requirements.

Upon written request of the developer, the director of environmental engineering planning may approve reasonable exceptions to, or deviations from, the requirements of Sections 19-240 through 19-240.2 in order to allow for the reasonable development of farmland or other areas devoid of healthy or suitable woody materials, for the preservation of wetlands, or when the strict application of requirements would result in unnecessary or unreasonable hardship to the developer. In such instances, the director of environmental engineering planning may approve satisfaction of a portion of a development's tree canopy requirement through use of a tree canopy bank or off-site planting or replacement of trees provided that the canopy thereby substituted is located within the Upper Swift Creek Watershed.

Sec. 19-240.4. Enforcement.

Penalties for violations of the requirements of Sections 19-240 through 19-240.3 shall be the same as those applicable to other violations of this chapter as set forth in Section 19-5. Notwithstanding the foregoing, this section shall apply only to tree canopy areas that (i) have been included in open space maintained by a home owners' association, (ii) are subject to a perpetual conservation easement, or (iii) are included on

individual lots which have not received a certificate of occupancy.

((2)	That	this	ordinance	shall	become	effective	immediate	lv upoi	n adoption	n.
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AYES: Messrs. Brown, Wallin, Gulley, Patton and Waller.

VIII. <u>CITIZEN COMMENTS ON UNSCHEDULED MATTERS</u>.

There were no comments on unscheduled matters.

IX. <u>ADJOURNMENT</u>.

There being no further business to come before the seconded by Mr. Waller, that the meeting adjourned 3:00 p.m.in the Public Meeting Room, 10001 Iron Br	d at 8:46 p.m. to Tuesday, November 19, 2013, a			
Chairman/Date	Secretary/Date			